

MAR-28-2005 MON 02:56 PM

FAX NO.

P. 08

984  
Serial No. 10/701,894

PATENT  
Docket No. 75054.010400

REMARKS

Claims 1-3, 9, 11-19, 25, 29-34 and 40-41 are rejected as anticipated. Applicant respectfully traverses those rejections.

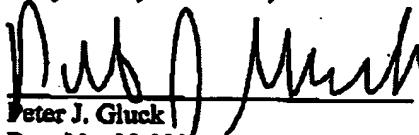
Claims 1-46 are rejected under the James reference.

Applicant is alleged to be a co-inventor under this patent application but was not properly contacted or has not assigned the rights to the same. Accordingly, the rejection is traversed, as a protest shall be filed. See attached Declarations 1-3.

Applicant shall prosecute this case to a state where interference can be declared, and first shall provide allowable subject matter.

The Director is authorized to charge any additional fee(s) or any underpayment of fee(s), or to credit any overpayments to Deposit Account Number 50-2638, Deposit Account Name Greenberg Traurig, LLP. Please ensure that the Attorney Docket Number is referred to when charging any payments or credits for this case.

Respectfully submitted,

  
Peter J. Gluck  
Reg. No. 38,022

Date: March 28, 2005

Customer Number 33717  
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PTO/SB/861 (08-04)

Approved for use through 07/31/2008. GMB 0851-0031  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

<b>PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)</b>		Docket Number (Optional) <b>75054.010400</b>
<p><b>First Named Inventor:</b> Mark C. Metzger      <b>Art Unit:</b> 3751  <b>Application Number:</b> 10/701,984      <b>Examiner:</b> J. Casimer Jacyna  <b>Filed:</b> November 6, 2003  <b>Title:</b> APPARATUS AND METHOD FOR BAGGING ICE</p>		
<p>Attention: Office of Petitions      Mail Stop Petition      Commissioner for Patents      P.O. Box 1450      Alexandria, VA 22313-1450</p> <p>NOTE: If information or assistance is needed in completing this form, please contact      Petitions Information at (703) 305-9282.</p> <p>The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.</p> <p><b>APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.</b>      NOTE: A grantable petition requires the following items:      (1) Petition fee.      (2) Reply and/or issue fee.      (3) Terminal disclaimer with disclaimer fee required for all utility and plant applications filed before June 8, 1985, and for all design applications; and      (4) Adequate showing of the cause of unavoidable delay.</p> <p><b>1. Petition fee</b>  <input checked="" type="checkbox"/> Small entity - fee \$ <u>250.00</u> (37 CFR 1.17(l)). Applicant claims small entity status.      See 37 CFR 1.27.  <input type="checkbox"/> Other than small entity - fee \$ _____ (37 CFR 1.17(l)).</p> <p><b>2. Reply and/or fee</b>      A The reply and/or fee to the above-noted Office action in the form of  <u>Response to Office Action Dated 7/12/04</u> (Identify the type of reply):  <input type="checkbox"/> has been filed previously on _____  <input checked="" type="checkbox"/> is enclosed herewith.</p> <p>B The issue fee of \$ _____  <input type="checkbox"/> has been filed previously on _____  <input type="checkbox"/> is enclosed herewith.</p>		

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This collection of information is required by 37 CFR 1.137(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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P. 03

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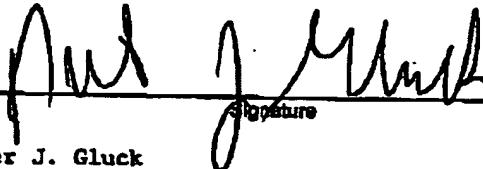
**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED  
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

**3. Terminal disclaimer with disclaimer fee**

- Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/83).

**4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.**

**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.



Signature

Peter J. Gluck

Typed or printed name

Greenberg Traurig LLP

Address  
2450 Colorado Avenue, Suite 400 East  
Santa Monica CA 90404

Address

March 28, 2006

Date

38,022

Registration Number, if applicable

714 708-6500

Telephone Number

Enclosure  Fee Payment

Reply

Terminal Disclaimer Form

Additional sheets containing statements establishing unavoidable delay

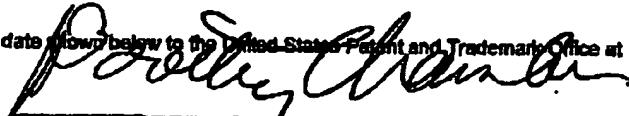
**CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))**

I hereby certify that this correspondence is being:

- deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1460.
- transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 672-9306.

March 28, 2005

Date



Signature

Dorothy E. Chambers

Typed or printed name of person signing certificate

[Page 2 of 3]

PAGE 3/14 \* RCV'D AT 3/28/2005 5:54:22 PM (Eastern Standard Time) \* SVR:USPTO-EFIRF-110 \* DHS:8728306 \* CSD: \* DURATION (mm:ss):00:44

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UNAVOIDABLY UNDER 37 CFR 1.137(a)**

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.



Signature

Peter J. Gluck

Typed or printed name

March 28, 2005

Date

38,022

Registration Number, if applicable

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

PLEASE SEE ATTACHED DOCUMENTS

(Please attach additional sheets if additional space is needed.)

[Page 3 of 3]